

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: David Quigley, AICP, Planning and Zoning Manager/ (954) 797-1103

PREPARED BY: Ingrid Allen, Planner III

SUBJECT: Ordinance

AFFECTED DISTRICT: 3 and 4

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 12, LAND DEVELOPMENT CODE, BY AMENDING SECTION 12-107, LANDSCAPING STANDARDS FOR LOTS AND SITES, SECTION 12-284, FENCES, MAILBOXES, BUS STOPS AND ENTRANCEWAY FEATURES, AND SECTION 12-288, INCENTIVES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from October 7, 2009)

REPORT IN BRIEF: Staff has revised the ordinance as directed by Town Council on November 4, 2009. The proposed ordinance now includes provisions to ensure that incentive points are given for dedication of equestrian trails only where the development includes a Homeowner's Association and a declaration of restrictions providing for maintenance of the adjacent right-of-way. Note that, pursuant to Sec. 720.401 of the Florida Statutes, a prospective owner of a parcel of land governed by a Home Owner's Association must be advised of this fact and that the community may have recorded a declaration of restrictions and charge maintenance fees.

PREVIOUS ACTIONS: At the October 7, 2009 Council meeting, this item was tabled to November 4, 2009.

At the November 4, 2009 Town Council meeting, Councilmember Luis made a motion, seconded by Vice-Mayor Crowley, to approve but where Homeowners Associations are required to do maintenance will continue, and Homeowners Association documents must

be amended and notification be given to residents that they are liable. **(Motion carried 4-1)**

CONCURRENCES:

At the September 23, 2009 Local Planning Agency meeting, Mr. DeArmas made a motion, seconded by Mr. Farkas, to table to October 14, 2009, or the next available meeting in order to allow staff more time for research since the proposed ordinance was a directive from the Town Council. **(Motion carried 5-0)**

At the October 14, 2009 Local Planning Agency Meeting, Mr. DeArmas made a motion, seconded by Mr. Jacob, to amend the incentives point system to add the following: 1) grant two points for the construction of an equestrian trail exceeding 3,500 linear feet; 2) grant two points for providing or funding of off-site improvements for equestrian or vehicular safety [such as trail crossings and traffic calming devices]; 3) two points for the construction of a full landscape buffer along the Town's designated scenic corridors; and 4) to amend the guardhouse standards so that the maximum building height shall be changed from ten (10) to twenty (20) feet. In a roll call vote, the vote was as follows: Chair Turin – yes; Vice-Chair Busey – absent; Mr. DeArmas – yes; Mr. Farkas – yes; Mr. Jacob – yes. **(Motion carried 4-0)**

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

RECOMMENDATION(S): Motion to approve ordinance

Attachment(s): Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 12, LAND DEVELOPMENT CODE, BY AMENDING SECTION 12-107, LANDSCAPING STANDARDS FOR LOTS AND SITES, SECTION 12-284, FENCES, MAILBOXES, BUS STOPS AND ENTRANCEWAY FEATURES, SECTION 12-286, INTENT, APPLICABILITY AND BOUNDARIES, AND SECTION 12-288, INCENTIVES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town adopted "Rural Lifestyle Regulations" by Ordinance 2002-35, which included design standards for guardgates, gatehouses and gate-arms; and

WHEREAS, the Town Council desires to modify the standards for guardgates, gatehouses and gate-arms; and

WHEREAS, the Local Planning Agency of the Town of Davie held a public hearing on October 14, 2009; and

WHEREAS, the Town Council of the Town of Davie held a public hearing duly advertised as required by State Statutes.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. That the above foregoing whereas clauses are hereby incorporated.

SECTION 2. That the Land Development Code of the Town of Davie, Florida, is hereby amended to read as follows (new language is underlined, deleted language is struck through):

[FROM CH. 12, ART. VI, SITE LANDSCAPING]

Sec. 12-107. Landscaping standards for lots and sites.

(A) Single-family and two-family districts.

1. Tree requirements. A minimum of three (3) trees per eight thousand (8,000) square feet of lot area (excluding house and paved areas). For lots over eight thousand (8,000) square feet, one (1) additional tree per three thousand (3,000) square feet of lot area, or fraction thereof, shall be provided. Trees required to be adjacent to the street or in the swale area are to be selected from the current Town of Davie Landscape Materials List.
 - (a) Tree requirements. For lots eight thousand (8,000) square feet: one (1) tree to be located in or adjacent to the swale area, second tree in the front yard and the third tree located at the discretion of the developer.
 - (b) For lots larger than eight thousand (8,000) square feet: two (2) trees to be located in or adjacent to the swale area, one (1) tree located in the front yard and the remainder at the discretion of the developer.
 - (c) For corner lots, an additional one (1) tree for each forty (40) linear feet of street frontage shall be required on the side street.

2. Shrub requirements. For every linear foot of building frontage (excluding entries and garage openings), one (1) shrub per eighteen (18) inches of building frontage or fraction thereof. Shrubs are to be twenty-four (24) inches in height at time of planting.
3. Ground cover requirements. Ground cover is required at the same quantity as shrubs.
4. Sodding. The complete site not dedicated to buildings, driveways, walkways or landscaping shall be sodded.
5. Required landscaping buffer and street trees for single-family and two-family districts adjacent to public rights-of-way.
 - (a) A required landscape buffer shall be provided for all residential districts in accordance with the following, except that additional buffer width may be required as provided in paragraph (c) of this subsection:

University Drive and State Road 84 shall be thirty (30) feet wide.

Arterial and collector streets shall be twenty (20) feet wide.

All other streets shall be ten (10) feet wide.

- (b) Such landscape buffer shall include one (1) fourteen- to sixteen-foot tree for every forty (40) linear feet or fraction thereof of street frontage and one (1) accent tree shall be provided for each one hundred (100) feet or fraction thereof.
 - (c) In addition, unless otherwise approved by town council, a hedge, wall, or fence of a height not less than two and one-half (2 1/2) feet, and not to exceed the maximum permitted height, shall be placed within the landscape buffer for all developments subject to site plan review. A variety of species and/or materials shall be used with no more than sixty (60) percent of the plants being one (1) predominate species.

If a fence or wall is used in the buffer, then the fence or wall shall be placed at the rear of the landscape buffer. A continuous row of hedges and the required trees shall be placed on the right-of-way side of the fence or wall, and the trees shall be staggered. The town council may waive the requirement of this subsection, if it determines that the wall or fence is an architectural feature such that esthetics will be better served by leaving it unscreened.
 - (d) Street trees shall be installed in the swale area of the street if deemed by the development services department to be safe. Such trees shall be planted at a minimum height of fourteen (14) to sixteen (16) feet. The quantity of trees shall be based upon one (1) tree for every forty (40) linear feet of street frontage or fraction thereof. The type of trees shall be consistent with other swale trees along the street and approved by the development services department. Suggested street trees may be found in the Town of Davie Landscape Materials List.
 - (e) Necessary accessways from the public right-of-way through all such landscape strips may be subtracted from the linear dimension used to determine the number of trees. Trees shall not be located in the required sight triangle found in section 12-109.
 - (f) University Drive, State Road 84 and Griffin Road from University Drive east to the town's limits shall include planting, as required by this section, together with a continuous landscape berm of curvilinear design and variable height from eighteen (18) inches to forty-two (42) inches, with an average height of thirty (30) inches.
 - (g) Required landscape buffers shall not be contained in any lot and shall be in addition to any recreational trail requirements of a minimum of fifteen (15) feet.
6. Required landscape buffer for proposed public rights-of-way or private ingress/egress easements. Where a public right-of-way or private ingress/egress easement is proposed that abuts an adjoining property not under the same ownership, a ten-foot landscape buffer shall be provided between the adjoining property and the proposed right-of-way or ingress/egress easement.

Within the landscape buffer, one (1) fourteen- to sixteen-foot tree shall be installed for each forty (40) linear feet of property line along with a continuous row of hedges.

- ~~7. No guard gates, guard arms, or other devices which restrict access to a residential development shall be permitted within a zoning district subject to the Rural Lifestyle Regulations, section 12-281, except as permitted therein.~~

[FROM CH. 12, ART. IX, RURAL LIFESTYLE REGULATIONS, DIV. 2, SCENIC CORRIDORS]

Sec. 12-284. Fences, mailboxes, bus stops and entranceway features.

- (A) All fences, mailboxes, bus stops and entranceway features developed within the scenic corridor setback shall be made of natural materials or substances derived from natural materials, including, but not limited to, wood, stucco, stone, brick and clay tile. Painted colors shall be limited to earth tones, natural, and white.
- (B) No entranceway feature shall be internally lighted. Light fixtures for external illumination ~~shall be contained in burial vaults or~~ shall be screened with cut-off shields. External illumination shall not exceed one and one-half (1.5) footcandles.
- (C) No mailbox or entranceway feature within the scenic corridor setback shall be greater than four and one-half (4.5) feet in height.
- (D) Fences shall meet the design requirements of the Rural Lifestyle Regulations, as stated in section 12-286. Fence colors shall be limited to earth tones, natural, or white and shall be a maximum of four (4) feet in height.
- (E) Fences located within a scenic corridor are intended to function as spatial locators and not be substantial in appearance. Such fences located in a scenic corridor buffer shall not exceed more than twenty (20) percent opacity.

[FROM CH. 12, ART. IX, RURAL LIFESTYLE REGULATIONS, DIV. 3, RURAL LIFESTYLE DEVELOPMENT REGULATIONS]

Sec. 12-286. Intent, applicability, and boundaries.

Intent. It is the intent of these zoning regulations to ensure that development is compatible with the surrounding land uses and maintains and enhances the rural character of the applicable zoning district. To this end, the one-unit per acre districts established by the town shall encourage residential development on one (1) acre parcels, through the use of incentives. Residential development occurring in the Agriculture, A-1 and Estate, R-1 zoning district shall be designed to ensure that the transition from vacant land and/or farmland to development is reviewed for the ultimate effect such development may have upon surrounding agricultural areas.

Applicability and Boundaries. The Rural Lifestyle Regulations shall apply to those portions of the town in the Agricultural, AG, Agricultural, A-1, and the Estate, R-1 zoning categories. In order to accomplish the goals set forth above, the town has determined that a separate set of regulations, over and above those that already exist, are necessary for these areas. With respect to the areas described above, these regulations shall prevail over any other regulations set forth in this Code to the extent that any such regulations could be construed to permit development within those boundaries which is not permitted by these regulations.

- (A) Permitted and Conditional Uses. The following list identifies the permitted uses and conditional uses within the areas governed by the Rural Lifestyle Regulations.
 - (1) Permitted Uses:
Dwelling, single family detached

- Recreation facilities
- Agricultural uses
- (2) Accessory Uses:
 - Equestrian facilities (per section 12-34(I))
 - Guest cottages (per section 12-33(A))
 - Home occupation (per section 12-34(N))
- (3) Conditional Uses: The following uses shall be permitted as conditional uses provided the requirements set forth for such conditional uses as noted are satisfied in addition to the special requirements of these Rural Lifestyle Regulations.
 - Special residential facility and group home (per section 12-34(Z))
 - Family day care (per section 12-34(J))
 - Animals (per section 12-34(B))
- (4) Special Prohibitions. The following structures or improvements are specifically prohibited unless otherwise specifically authorized by this section:

Walls, unless provided for as specified in section 12-286(B) and section 12-288.

~~Guard gates, guard arms, or other devices which can restrict access.~~

Guard gates, guardhouses, gate arms and similar devices designed to restrict access, except as permitted pursuant to Section 12-288(G).

Berms unless provided for as specified in section 12-286(B) and section 12-288.

Shadow box fence unless provided for as specified in section 12-286(B) and section 12-288.

(B) Supplemental Restrictions.

- (1) Fences. Fences located within the front setback or adjacent to a scenic corridor shall be a maximum of four (4) feet in height. In all other locations, fences shall be a maximum of six (6) feet in height. Fences are allowed as of right designed as one of the following styles:
 - (a) Split rail fence
 - (b) Green or black vinyl clad chain link fence
 - (c) Decorative white picket fences
 - (d) Shadow box may be permitted within the building envelope.
 - (e) Other fence material as approved at time of site plan approval meeting the intent of the Rural Lifestyle Initiative.

All fence types shall maintain a maximum of fifty (50) percent opacity. On a case by case basis where a property owner believes there is a hardship relative to adhering to one of the fence styles indicated in (B)(1)(a) through (e) above, a variance may be requested in accordance with section 12-309. The applicant (property owner) shall demonstrate evidence that the requested variance meets all findings of fact contained in section 12-309(B)(1)(a)--(c). Further, the applicant shall provide evidence detailing the reasons that one of the aforementioned fence styles above can not be utilized.
- (2) Berms. Berms shall be designed to be both undulation and meandering and not to exceed three (3) feet in height with a maximum 3:1 slope.
- (3) Walls. Walls shall be permitted only in compliance with the following design requirements.
 - (a) Walls shall not exceed maximum three (3) feet in height.
 - (b) Any wall shall provide a break every ten (10) feet and a landscaped space between any two wall sections, a minimum of two (2) times the provided wall section and designed with a hedge or other type of landscape material between the breaks in the wall.
 - (c) No wall shall be placed atop a berm.

- (d) This section shall supersede the wall requirements of section 12-33O).
- (e) Columns are allowed to be used in conjunction with fence or wall material with a maximum column width of three (3) feet and no closer than ten (10) feet between any two columns. Such columns shall not exceed four (4) feet in height.

Sec. 12-288. Incentives.

Rural Lifestyle incentives. As stated below, the following information details the incentives available for developments that provide additional benefits to the town. Such incentives shall not exceed ten (10) points for each incentive and may not exceed a total of twenty-four (24) points.

- (A) Incentives for One-Acre Lots. The provisions of section 12-287 may, under the circumstances set forth below, be waived by the town council where the plat or site plan restricts all lots contained therein to no less than forty-three thousand five hundred sixty (43,560) square feet in size, in the A-1 and R-1 zoning districts. The provisions set forth below provide for a number of incentives and options which can be authorized by the town council as waivers from regulations set forth in section 12-287, based upon the binding commitment in a plat or site plan for a minimum lot size of forty-three thousand five hundred sixty (43,560) square feet. No more than ten (10) points worth of these incentives may be authorized by the town council for any plat or site plan.

Developments utilizing a forty-three thousand five hundred sixty (43,560) net dry lot (as set forth in a binding commitments) shall be allowed a total of ten (10) points worth of flexible site design details as described in Subsection (~~DG~~) in exchange for providing a larger lot size, in keeping with the goal of the Rural Lifestyle Initiative.

- (B) Incentives for Open Space. An approved plat or site plan that provides a minimum of twenty (20) percent open space in the AG, A-1, or R-1 zoning district shall be allowed to utilize the incentive program, as described in subsection (~~DG~~), allowing for a maximum of ten (10) points worth of flexible site design details.

In order to qualify, all the following requirements must be met:

- (1) The open space shall be located at the major access points to a community or adjacent to an existing trail or public park or other such public lands.
- (2) The open space shall be owned by the Homeowners Association, or other accepted entity, as approved by the town to assure its continued maintenance in perpetuity. Appropriate recorded restrictions, as approved by the town attorney, shall be recorded as a condition to plat or site plan approval.
- (3) The minimum twenty (20) percent open space provided shall be net dry and not contain any water.
- (4) The open space shall be identified by a separate legal description either at time of plat or site plan.
- (5) The open space shall be no less than 50 feet in width at its most narrow point.
- (6) No more than fifteen (15) percent of the open space shall consist of impervious area, either paved or structures.

- (C) Incentives for Traditional Architecture and Site Design. A plat or site plan that provide for a Florida Vernacular Theme Architectural style in conjunction with and design elements of a traditional neighborhood site design shall be allowed to utilize the incentive program, as described in subsection (G), allowing for a maximum of four (4) points worth of flexible site design details, as follows:

(D) Incentives for equestrian trails. A development that provides for the dedication and development of at least three thousand five hundred (3,500) lineal feet of equestrian trail in fulfillment of the Town's equestrian trail master plan, shall be allowed to utilize the incentive program, as described in subsection (G), allowing for a maximum of two (2) points worth of flexible site design details. Developments utilizing this incentive must execute an agreement with the Town of Davie, on a form acceptable to the Town Attorney, providing for notice to individual lot owners and providing that the developer or the development's Homeowner's Association is responsible for maintaining, in perpetuity, the equestrian trail as well as any unpaved portions of the right-of-way between the edge of the development parcel and the edge of pavement of any abutting roadway.

(E) Incentives for off-site improvements. Installation or funding of off-site improvements necessary to connect equestrian trails, such as crosswalks, signage and traffic calming devices, shall be allowed to utilize the incentive program as described in subsection (G), allowing for a maximum of two (2) points worth of flexible site design details.

(F) Incentives for planting a scenic corridor landscape buffer. A development that provides a full landscape buffer along a designated scenic corridor in the manner set forth in Section 12-285 shall be allowed to utilize the incentive program as described in subsection (G), allowing for a maximum of two (2) points worth of flexible site design details.

~~(DG)~~ Table of Incentives.

Point Weight	Incentive
5 points	Guardgates, guardhouses, gate-arms, or other devices which can restrict access. Any such guardgate or guardhouse shall meet the following standards: <ul style="list-style-type: none"> Maximum building height: Ten (10) twenty (20) feet Maximum building square footage: Two hundred (200) sq. ft. The facade of all buildings shall be made of natural materials or substances derived from natural materials, including, but not limited to, wood, stucco, stone, brick and clay tile.
5 points	Reduced ultimate road right-of-way (on local roads) to a 40-foot cross-section with a sidewalk required on only one side of the road.
2 points	Sidewalks only on one side of the road.
3 points	Palm trees may be allowed to exceed twenty-five (25) percent maximum, not to exceed fifty (50) percent. (as required in section 12-107)
5 points	Entry features and signs shall be allowed to exceed the maximum 4.5 feet in height, but not to exceed ten (10) feet in height and ten (10) feet in length, per side.
5 points	Culs-de-sac shall be allowed as of right, with no limitation on the ultimate number. Developments shall provide access to all adjacent public road right-of-way.
2 points	Curbing material may be modified and/or deleted upon approval from the town engineer based on the size of a proposed development and anticipated number of vehicular trips per day.
2 points	Street lights may not be required, upon approval from the town engineer based review of a proposed development and anticipated number of vehicular trips per day.

SECTION 3. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, phrase, title, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 5. This ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS ____ DAY OF _____, 2009.

PASSED ON SECOND READING THIS ____ DAY OF _____, 2009.

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS ____ DAY OF _____, 2009.